

IN THE U.S. PATENT AND TRADEMARK OFFICE BEFORE
THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of	Appeal No.
Stefano CERBINI et al.	Conf. 8979
Application No. 10/534,833	Group 1794
Filed May 13, 2005	Examiner Peter Choi

CLOTHING FOR PARTIAL PROTECTION OF THE BODY
AGAINST BIOLOGICAL AGENTS

APPEAL BRIEF

MAY IT PLEASE YOUR HONORS:

1. Real Party in Interest

The real parties in interest in this appeal are:

Stefano Cerbini, Via Torrecelli 10, Pesaro, Italy; and
Pasqualino Lo Ioco, Via Certaldo 523, Cesena, Italy.

2. Related Appeals and Interferences

None.

3. Status of Claims

Claims 1-14 and 22-25 have been canceled. Claims 15-21 and
26-36 are pending. Claims 15-21 and 26-36 have been finally
rejected, from which this appeal is taken.

4. Status of Amendments

A preliminary Amendment was filed on May 13, 2005.

An Amendment (entered) responsive to notice of non-compliant amendment was filed on February 26, 2008.

A second preliminary Amendment (entered) was filed on August 16, 2006.

An Amendment (entered) responsive to the non-final Official Action of January 30, 2007 was filed on February 28, 2007.

A supplemental Amendment (entered) was filed on March 8, 2007.

An Amendment (entered) responsive to the non-final Official Action of April 19, 2007, was filed on October 19, 2007.

5. Summary of Claimed Subject Matter

Independent claim 15: As is set forth in independent claim 15, the present invention pertains to protective clothing against biological agents (page 4, lines 7-9) and exhibiting a very high level of protection against the penetration of liquids and microorganisms, mechanical resistance properties as well as outstanding softness, drapeability and comfort (page 4, lines 10-14), which includes a laminate of an inner layer of non-woven polypropylene with an outer layer of polyethylene film, a unit weight ratio between polypropylene and polyethylene ranging from 70:30 to 50:50 (page 4, lines 18-22).

Independent claim 28: As is set forth in independent claim 28, the present invention pertains to a protective garment, which includes a laminate of an inner layer of non-woven polypropylene with an outer layer of polyethylene film, a unit weight ratio between polypropylene and polyethylene ranging from 70:30 to 50:50 (page 4, lines 18-22). The inner layer provides a barrier against liquids and microorganisms, is physiologically safe, and is breathable (page 5, lines 15-17), and the outer layer is microporous with a pore size low enough to prevent passage of liquids and microorganisms which allowing moisture to pass on a molecular level (page 5, lines 18-21).

It is noted that the drawing figures do not have reference numerals, but the garment of the present invention is clearly depicted in Figure 1.

6. Grounds of Rejection to be Reviewed on Appeal

The first ground for review on appeal is whether claims 27-36 are sufficiently indefinite to support a rejection under 35 USC §112, second paragraph.

The second ground for review on appeal is whether claims 15, 16, and 26-30 are anticipated by McCORMACK (U.S. Patent 5,855,999) sufficient to support a rejection under 35 USC §102(b).

The third ground for review on appeal is whether claims 15-20 and 26-35 are anticipated by BODFORD (U.S. Patent

5,589,249) sufficient to support a rejection under 35 USC §102(b) or, alternately to support a rejection under 35 USC §103(a).

The fourth ground for review on appeal is whether claims 15 and 16 are unpatentable over WU (U.S. Patent 5,865,926) in view of McCORMACK sufficient to support a rejection under 35 USC §103(a).

The fifth ground for review on appeal is whether claims 17-20 are unpatentable over WU in view of McCORMACK, and further in view of BODFORD sufficient to support a rejection under 35 USC §103(a).

The sixth ground for review on appeal is whether claims 21 and 36 are unpatentable over McCORMACK in view of LANGLEY (EP 0360208) sufficient to support a rejection under 35 USC §103(a).

The seventh ground for review on appeal is whether claims 21 and 36 are unpatentable over BODFORD in view of LANGLEY (sufficient to support a rejection under 35 USC §103(a)).

7. Argument

7.1 First Ground: Rejection Under 35 USC §112, Second Paragraph

At page 2 of the Official Action mailed December 6, 2007, the Examiner asserts that claims 27 and 28 recite that the outer layer has a pore size "low enough to prevent passage of liquids and microorganisms," and it is unclear what this limitation means as to what pore size is meant.

However, this limitation would be clear to one of ordinary skill in the art, who would know that a pore size of 0.1-0.2 μm

is sufficient to block the passage of virtually all bacteria and the utilization of a hydrophobic material would provide resistance to liquids such as water. See, e.g., http://www.pall.com/34445_3813.asp.

At page 2 of the Official Action mailed December 6, 2007, the Examiner asserts that claim 30 recites that the garment exhibits "a very high level of protection against the penetration of liquids and microorganisms, mechanical resistance properties as well as outstanding softness, drapeability and comfort." However, the Examiner asserts that these limitations are unclear because they are subjective.

However, that fact that claim language, including terms of degree, may not be precise, does not automatically render the claim indefinite under 35 U.S.C. 112, second paragraph. *Seattle Box Co., v. Industrial Crating & Packing, Inc.*, 731 F.2d 818, 221 USPQ 568 (Fed. Cir. 1984). Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification.

When a term of degree (or a subjective term) is presented in a claim, first a determination is to be made as to whether the specification provides some standard for measuring that degree. If it does not, a determination is made as to whether one of ordinary skill in the art, in view of the prior art and the status of the art, would be nevertheless reasonably apprised of the scope of the invention. Even if the specification uses the

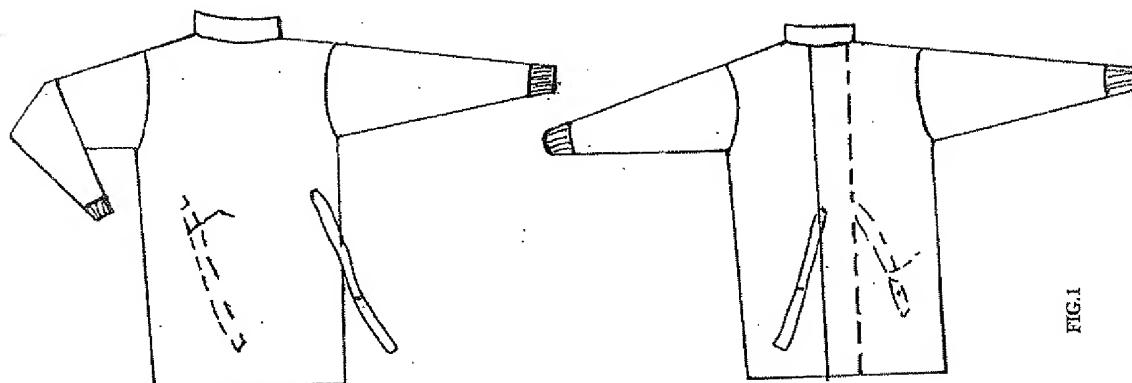
same term of degree as in the claim, a rejection may be proper if the scope of the term is not understood when read in light of the specification. See *In re Wiggins*, 488 F. 2d 538, 541, 179 USPQ 421, 423 (CCPA 1973).

In this case, properties such as softness, drapeability and comfort are difficult to quantify but would be known from the experience of one of skill in the art (and also from the view of a skilled user of protective clothing). As a result, the claims in question are clear, definite and have full antecedent basis.

Accordingly, this indefiniteness rejection should be withdrawn.

7.2 Second Ground: Anticipation Rejection Over McCORMACK

The present invention pertains to clothing protective against biological agents and exhibiting a very high level of protection against the penetration of liquids and microorganisms, mechanical resistance properties as well as outstanding softness, drapeability and comfort. The clothing of the present invention can be seen, by way of example, in Figure 1 of the application, which is reproduced below.



As is set forth in claim 15 of the present invention, the clothing is formed from "a laminate of an inner layer of non-woven polypropylene with an outer layer of polyethylene film, a unit weight ratio between polypropylene and polyethylene ranging from 70:30 to 50:50."

McCORMACK pertains to a nonwoven composite. McCORMACK fails to disclose or suggest "a unit weight ratio between polypropylene and polyethylene ranging from 70:30 to 50:50," such as is set forth in claim 15 of the present invention.

The Official Action of December 6, 2007 refers *inter alia* to column 12, line 53 to column 13, line 52 of McCORMACK, the only passage (relied upon in the Official Action) that sets forth numerical values from which a ratio can be derived. McCORMACK at column 12, lines 59-60 discloses "0.5 ounce per square yard (17 gsm) polypropylene." This passage additionally discusses calcium

carbonate blended with "15-25% by weight of linear low density polyethylene" (sentence bridging columns 12 and 13). The rest of this passage and Table 1 of McCORMACK (to which this passage refers) set forth separate percentages of materials.

However, there is no teaching or inference in McCORMACK of a ratio, and deriving a ratio from individual components or measurements has been found to be impermissible. See *Harries v. Air King Products Co.*, 183 F.2d 158, 86 U.S.P.Q. 57 (2d Cir. 1950).

In *Harries*, the length and width of electron streams in an electron tube were used to extrapolate a ratio, even though the specification did not once mention the ratio of the length of the electron stream to its cross section. Judge Learned Hand found: "We hold that the original specifications were for long streams, regardless of the ratio of length to cross-section, because the ratio was a later and unauthorized interpolation into the application as originally filed." 183 F.2d at 159. Judge Learned Hand additionally stated:

Even though it were possible that a person skilled in the art might see that it was not absolute length, but the ratio of length to cross-section that was important, we should not be justified in validating such an expansion of the original; it is the sort of artful extrapolation against which courts have over and over set their faces. 183 F.2d at 160.

As a result, McCORMACK fails to disclose ratios, and it is impermissible to extract ratios from the data set forth in McCORMACK.

In the Response to Arguments at pages 4-6 of the Official Action of December 6, 2007, the Examiner gives a detailed analysis of HARRIES and notes that HARRIES applies to infringement analysis and further notes that HARRIES permits the specification to be amended to recite a ratio as long as the ratio is not reflected in the claims. This acknowledges that axiom that the inventor must be in possession of the invention at the time the application is filed. See, e.g., *In re Gosteli*, 872 F.2d 1008, 1012, 10 USPQ2d 1614, 1618 (Fed. Cir. 1989).

However, the question can also be considered as a question of whether one of ordinary skill would implicitly find this ratio in McCORMACK.

"[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." *In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968) (A process for catalytically producing carbon disulfide by reacting sulfur vapor and methane in the presence of charcoal at a temperature of "about 750-830°C" was found to be met by a reference which expressly taught the same process at 700°C because the reference recognized the possibility of using temperatures greater than 750°C. The reference disclosed that catalytic processes for converting methane with sulfur vapors into carbon disulfide at temperatures greater than 750°C (albeit without charcoal) was

known, and that 700°C was "much lower than had previously proved feasible."); *In re Lamberti*, 545 F.2d 747, 750, 192 USPQ 278, 280 (CCPA 1976) (Reference disclosure of a compound where the R-S-R' portion has "at least one methylene group attached to the sulfur atom" implies that the other R group attached to the sulfur atom can be other than methylene and therefore suggests asymmetric dialkyl moieties.).

However, this straightforward type of temperature range extension or moiety substitution is much simpler than the mathematical manipulation required to find a ratio, especially in regard to the subjective qualities optimized by the present invention.

In the Response to Arguments at pages 4-6 of the Official Action of December 6, 2007, the Examiner asserts that the lacking characteristic is "inherent in McCORMACK. Even if one considers *arguendo* that this characteristic is inherent in McCORMACK, this inherency is no bar to patentability.

Accidental results not intended and not appreciated do not constitute anticipation. *Eibel Processing Co. v. Minnesota and Ontario Paper Co.*, 261 US 45 (1923); *Mycogen Plant Science, Inc. v. Monsanto Co.*, 243 F.3d 1316, 1336, 5 USPQ2d 1030, 1053 (2001). Further, the Federal Circuit stated in *In re Robertson*, that "to establish inherency, extrinsic evidence must make clear that the missing descriptive matter was necessarily present in the thing described in the reference, and would be so recognized by persons

with ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a set of circumstances is not sufficient." *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949 (Fed. Cir. 1999). Further, it has been held that the mere fact that a certain thing may result from a given set of circumstances is not sufficient, and occasional results are not inherent. *MEHL/Biophile International v. Milgraum*, 192 F.3d 1362, 1365, 52 USPQ2d 1303 (Fed. Cir. 1999).

Although the requirement for extrinsic evidence was discussed at page 4 of the Official Action of December 6, 2007, no extrinsic evidence has been proffered to prove the characteristics allegedly inherent in McCORMACK.

McCORMACK thus fails to teach each and every element of independent claim 15 of the present invention.

When alleging anticipation under 35 U.S.C. §102, the entire claim must be considered. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). "[A]ll the claim limitations must be taught or suggested by the prior art." *In re*

Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All the words of a claim must be considered in judging the patentability of that claim against the prior art." In *re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

McCORMACK therefore fails to anticipate claim 15 of the present invention. Claims depending upon claim 15 are patentable over McCORMACK for at least the above reasons.

Accordingly, this anticipation rejection over McCORMACK should be withdrawn.

7.3 Third Ground: Anticipation Rejection Over BODFORD

BODFORD pertains to a medical composite with a discontinuous adhesive structure. Claim 1 of BODFORD recites "a vapor permeable, non-woven fabric substrate" and "at least two vapor permeable and liquid impermeable film substrates." BODFORD at column 4, lines 41-51 discusses "only three substrates".

BODFORD fails to disclose "a laminate of an inner layer of non-woven polypropylene with an outer layer of polyethylene film, a unit weight ratio between polypropylene and polyethylene ranging from 70:30 to 50:50," as is set forth in independent claim 15 of the present invention.

Regarding ratio, the Official Action refers to various passages in BODFORD, including Example 1 and Table II. However, similar to McCORMACK, there is no teaching or suggestion of a **ratio** between polypropylene and polyethylene in BODFORD, and it

is improper to extract ratios from raw data. *Harries v. Air King Products Co.*, *supra*.

BODFORD et al. accordingly fail to disclose a two layer garment suitable "for protection against biological agents and combining, at the same time, a high level of protection with high comfort and softness, particularly with the claimed ratio of polymers. In contrast, it would be assumed from BODFORD. that there would be no way to obtain good performance from with a simpler structure, because BODFORD et al. utilize additional substrates.

In the Response to arguments at pages 10-12 of the Official Action of December 6, 2007, the doctrine of inherency and a refutation of *HARRIES* is again asserted. However, the arguments regarding inherency and *HARRIES* in the discussion of *MCCORMACK* above are just as applicable here, and the discussion is not repeated for the sake of brevity.

BODFORD et al. thus fail to anticipate or render *prima facie* unpatentable claim 15 of the present invention. Claims depending upon claim 15 are patentable for at least the above reasons.

7.4 Fourth Ground: Unpatentability Rejection Over *WU* and *MCCORMACK*

7.4.1 Interpretation of 35 USC §103

When a rejection is based on 35 USC §103, what is in issue in such a rejection is "the invention as a whole," not just a few features of the claimed invention. Under 35 U.S.C. §103, "[a]

patent may not be obtained . . . if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains." The determination under §103 is whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. See *In re O'Farrell*, 853 F.2d 894, 902, 7 USPQ2d 1673, 1680 (Fed. Cir. 1988). In determining obviousness, the invention must be considered as a whole and the claims must be considered in their entirety. See *Medtronic, Inc. v. Cardiac Pacemakers, Inc.*, 721 F.2d 1563, 1567, 220 USPQ 97, 101 (Fed. Cir. 1983).

In rejecting claims under 35 USC §103, it is incumbent on the Examiner to establish a factual basis to support the legal conclusion of obviousness. See, *In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one of ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reasoning must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. *Uniroyal Inc. v. F-Wiley Corp.*,

837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988), cert. denied, 488 U.S. 825 (1988); *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the Examiner are an essential part of complying with the burden of presenting a *prima facie* case of obviousness. Note, *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992).

The criteria for patentability has been refined by the by the Supreme Court in *KSR International Co. v. Teleflex Inc. (KSR)*, 550 U.S. ___, 82 USPQ2d 1385 (2007). The Supreme Court in *KSR* reaffirmed the familiar framework for determining obviousness as set forth in *Graham v. John Deere Co.* (383 U.S. 1, 148 USPQ 459 (1966)), but stated that the Federal Circuit had erred by applying the teaching-suggestion-motivation (TSM) test in an overly rigid and formalistic way. *KSR*, 550 U.S. at ___, 82 USPQ2d at 1391. Specifically, the Supreme Court stated that the Federal Circuit had erred in four ways: (1) "by holding that courts and patent examiners should look only to the problem the patentee was trying to solve " (*Id.* at ___, 82 USPQ2d at 1397); (2) by assuming "that

a person of ordinary skill attempting to solve a problem will be led only to those elements of prior art designed to solve the same problem" (Id.); (3) by concluding "that a patent claim cannot be proved obvious merely by showing that the combination of elements was 'obvious to try'" (Id.); and (4) by overemphasizing "the risk of courts and patent examiners falling prey to hindsight bias" and as a result applying "[r]igid preventative rules that deny factfinders recourse to common sense" (Id.).

Although the Supreme Court in KSR cautioned against an overly rigid application of teaching-suggestion-motivation (TSM) rationale, it also recognized that TSM was one of a number of valid rationales that could be used to determine obviousness. (According to the Supreme Court, establishment of the TSM approach to the question of obviousness "captured a helpful insight." 550 U.S. at ___, 82 USPQ2d at 1396 (citing *In re Bergel*, 292 F.2d 955, 956-57, 130 USPQ 206, 207-208 (1961))).

This interpretation of 35 USC §103 should also be considered when considering BODFORD, above.

7.4.2 WU and McCORMACK

WU et al. ["]pertain to a method of making a cloth-like laminate of a nonwoven fibrous web and a thermoplastic film using an extrusion coating process. The Official Action of December 6, 2007 acknowledges that WU et al. fail to disclose a unit weight ratio as is set forth in claims 15 and 16 of the present

invention. The Official Action then refers to McCORMACK to address these deficiencies.

However, the inability of McCORMACK (and similarly BODFORD et al.) to teach or infer polymer ratios has been discussed above.

One of ordinary skill and creativity would thus fail to produce claim 15 of the present invention from a knowledge of WU and McCORMACK. A *prima facie* case of unpatentability has thus not been made.

This rejection over WU and McCORMACK should thus be withdrawn.

7.5 Fifth Ground: Unpatentability Rejection Over WU, McCORMACK and BODFORD

WU pertains to a method of making a cloth-like laminate of a nonwoven fibrous web and a thermoplastic film using an extrusion coating process. The Official Action of December 6, 2007 acknowledges that WU et al. fail to disclose a unit weight ratio as is set forth in claims 15 and 16 of the present invention. The Official Action then refers to McCORMACK and BODFORD to address these deficiencies.

However, the inability of McCORMACK and BODFORD to teach or infer polymer ratios has been discussed above.

One of ordinary skill and creativity would thus fail to produce claim 15 of the present invention from a knowledge of WU, McCORMACK and BODFORD. Claims depending upon claim 15, i.e.,

claims 17-20, are also patentable over this combination of references. A *prima facie* case of unpatentability has thus not been made.

This rejection over WU, McCORMACK and BODFORD should thus be withdrawn.

7.6 Sixth Ground: Unpatentability Rejection McCORMACK and LANGLEY

The inability of McCORMACK (and similarly BODFORD) to teach or infer polymer ratios has been discussed above. The additional teachings of LANGLEY fail to address these deficiencies.

One of ordinary skill and creativity would thus fail to produce claims 21 and 36 of the present invention from a knowledge of McCORMACK and LANGLEY. A *prima facie* case of unpatentability has thus not been made.

This rejection over McCORMACK and LANGLEY should thus be withdrawn.

7.7 Seventh Ground: Unpatentability Rejection BODFORD and LANGLEY

The inability of BODFORD (and similarly McCORMACK) to teach or infer polymer ratios has been discussed above. The additional teachings of LANGLEY fail to address these deficiencies.

One of ordinary skill and creativity would thus fail to produce claims 21 and 36 of the present invention from a knowledge of BODFORD and LANGLEY. A *prima facie* case of unpatentability has thus not been made.

This rejection over BODFORD and LANGLEY should thus be withdrawn.

8. Conclusion

The Appellants have demonstrated that the Examiner has failed to successfully allege that the rejected claims are anticipated or *prima facie* unpatentable. It is clear that the inventive article of clothing represents a truly inventive technology. For the reasons advanced above, it is respectfully submitted that all the rejected claims in this application are allowable. Thus, favorable reconsideration and reversal of the Examiner's rejections of claims 15-21 and 26-36 under 35 USC §§ 102/103, by the Honorable Board of Patent Appeals and Interferences, are respectfully solicited.


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If necessary, the Commissioner is hereby authorized in this, concurrent, and future submissions, to charge any underpayment or credit any overpayment to Deposit Account No. 25-0120 for any

additional fees required under 37 C.F.R. § 1.16 or under 37
C.F.R. § 1.17.

Respectfully submitted,

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December 8, 2008

Enclosures: Claims Appendix

9. Claims Appendix

15. Protective clothing against biological agents and exhibiting very high level of protection against the penetration of liquids and microorganisms, mechanical resistance properties as well as outstanding softness, drapeability and comfort, comprising:

a laminate of an inner layer of non-woven polypropylene with an outer layer of polyethylene film, a unit weight ratio between polypropylene and polyethylene ranging from 70:30 to 50:50.

16. Protective clothing as claimed in claim 15, wherein said ratio in unit weight between polypropylene and polyethylene ranges from 65:35 to 55:45.

17. Protective clothing as claimed in claim 15, wherein a thickness of the laminate ranges between 270 and 340 microns and the unit weight ranges between 55 and 75 g/m².

18. Protective clothing as claimed in claim 15, wherein the inner layer of nonwoven polypropylene has a thickness ranging between 240 and 270 microns and unit weight ranging between 35 and 45 g/m² and the outer polyethylene film has a thickness

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ranging between 30 and 70 microns and unit weight ranging between 20 and 30 g/m².

19. Protective clothing as claimed in claim 15, wherein a thickness of the laminate ranges between 285 and 315 microns and a unit weight ranges between 60.0 and 67.5 g/m².

20. Protective clothing as claimed in claim 15, wherein the inner layer of nonwoven polypropylene has a thickness ranging between 245 and 255 microns and unit weight ranging between 37.5 and 40.0 g/m² and the outer polyethylene film has a thickness ranging between 40 and 60 microns and unit weight ranging between 22.5 and 27.5 g/m².

21. Protective clothing as claimed in claim 15, wherein joining parts are made by heat welding.
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26. Protective clothing as claimed in claim 15, wherein the inner layer provides a barrier against liquids and microorganisms, is physiologically safe, and is breathable.

27. (new) Protective clothing as claimed in claim 15, wherein the outer layer is microporous with a pore size low enough to prevent passage of liquids and microorganisms which allowing moisture"to pass on a molecular level.

28. (new) A protective garment, comprising:

a laminate of an inner layer of non-woven polypropylene with an outer layer of polyethylene film, a unit weight ratio between polypropylene and polyethylene ranging from 70:30 to 50:50,

wherein the inner layer provides a barrier against liquids and microorganisms, is physiologically safe, and is breathable, and the outer layer is microporous with a pore size low enough to prevent passage of liquids and microorganisms which allowing moisture to pass on a molecular level.

29. (new) The protective garment as claimed in claim 28, wherein the protective garment is a gown, jacket or trousers.

30. The protective garment as claimed in claim 28, wherein the protective garment is protective clothing against biological agents and exhibits a very high level of protection against the penetration of liquids and microorganisms, mechanical resistance properties as well as outstanding softness, drapeability and comfort.

31. The protective garment as claimed in claim 28, wherein said ratio in unit weight between polypropylene and polyethylene ranges from 65:35 to 55:45.

32. The protective garment as claimed in claim 28, wherein a thickness of the laminate ranges between 270 and 340 microns and a unit weight ranges between 55 and 75 g/m².

33. The protective garment as claimed in claim 28, wherein the inner layer of nonwoven polypropylene has a thickness ranging between 240 and 270 microns and unit weight ranging between 35 and 45 g/m² and the outer polyethylene film has a thickness ranging between 30 and 70 microns and unit weight ranging between 20 and 30 g/m².

34. The protective garment as claimed in claim 28, wherein a thickness of the laminate ranges between 285 and 315 microns and a unit weight ranges between 60.0 and 67.5 g/m².

35. The protective garment as claimed in claim 28, wherein the inner layer of nonwoven polypropylene has a thickness ranging between 245 and 255 microns and unit weight ranging between 37.5 and 40.0 g/m² and the outer polyethylene film has a thickness ranging between 40 and 60 microns and unit weight ranging between 22.5 and 27.5 g/m².

36. The protective garment as claimed in claim 28, wherein joining parts are made by heat welding.

10. Evidence Appendix

None

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11. Related Proceedings Appendix

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